

## § 242.12

custodian of the respondent shall be requested to appear on behalf of the respondent.

[22 FR 9797, Dec. 6, 1957]

### § 242.12 Interpreter.

Any person acting as interpreter in a hearing before an Immigration Judge under this part shall be sworn to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath shall be required.

[52 FR 2940, Jan. 29, 1987]

### § 242.13 Postponement and adjournment of hearing.

After the commencement of the hearing, the Immigration Judge may grant a reasonable adjournment either at his or her own instance or, for good cause shown, upon application by the respondent or the Service.

[52 FR 2940, Jan. 29, 1987]

### § 242.14 Evidence.

(a) *Sufficiency.* A determination of deportability shall not be valid unless it is found by clear, unequivocal and convincing evidence that the facts alleged as grounds for deportation are true.

(b) [Reserved]

(c) *Use of prior statements.* The special inquiry officer may receive in evidence any oral or written statement which is material and relevant to any issue in the case previously made by the respondent or any other person during any investigation, examination, hearing, or trial.

(d) *Testimony.* Testimony of witnesses appearing at the hearing shall be under oath or affirmation administered by the special inquiry officer.

(e) *Depositions.* The Immigration Judge may order the taking of depositions pursuant to § 3.33 of this chapter.

[22 FR 9797, Dec. 6, 1957, as amended at 32 FR 2883, Feb. 15, 1967; 52 FR 2940, Jan. 29, 1987]

### § 242.15 Contents of record.

The hearing before the special inquiry officer, including the testimony, exhibits, applications and requests, the special inquiry officer's decision, and all written orders, motions, appeals, briefs, and other papers filed in the

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proceedings shall constitute the record in the case. The hearing shall be recorded verbatim except for statements made off the record with the permission of the special inquiry officer. In his discretion, the special inquiry officer may exclude from the record any arguments made in connection with motions, applications, requests, or objections, but in such event the person affected may submit a brief.

[26 FR 12112, Dec. 19, 1961]

### § 242.16 Hearing.

(a) *Opening.* The Immigration Judge shall advise the respondent of his right to representation, at no expense to the Government, by counsel of his own choice authorized to practice in the proceedings and require him to state then and there whether he desires representation; advise the respondent of the availability of free legal services programs qualified under part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where the deportation hearing is being held; ascertain that the respondent has received a list of such programs, and a copy of Form I–618, Written Notice of Appeal Rights; advise the respondent that he will have a reasonable opportunity to examine and object to the evidence against him, to present evidence in his own behalf and to cross-examine witnesses presented by the Government; place the respondent under oath; read the factual allegations and the charges in the order to show cause to the respondent and explain them in nontechnical language, and enter the order to show cause as an exhibit in the record. Deportation hearings shall be open to the public, except that the Immigration Judge may, in his discretion and for the purpose of protecting witnesses, respondents, or the public interest, direct that the general public or particular individuals shall be excluded from the hearing in any specific case. Depending upon physical facilities, reasonable limitation may be placed upon the number in attendance at any one time, with priority being given to the press over the general public.

(b) *Pleading by respondent.* The special inquiry officer shall require the respondent to plead to the order to show